

REMARKS

Claims 2 through 9, 11 through 25, 27 through 30 and 38 through 57 were rejected under 35 U.S.C. § 102(e) as anticipated by Sahai *et al.* Claim 2 has been amended. Claim 2 now provides that the quality of encoding includes a first quality and a second quality where the first quality is less than the second quality. Claim 2 also includes the step of selecting either the first quality or the second quality based on the type of content of the audio image and video. The Examiner cites Sahai at column 3, lines 23-60, as indicating the attributes of the preference description. However, this passage in Sahai does not provide the claimed preferences description with media attributes wherein the attribute describes the quality of encoding. At line 50, quality of service is listed as one of the pieces of data sent by the client to the server but there is no media attribute that the system provides as parts of the preferences description that describes the quality of encoding of audio image or video. Moreover, claim 2 now includes the step of selecting an image, audio or video, of either a first quality or a second quality of encoding based upon the type of content. Sahai teaches only that the server adjusts the quality of media based upon the capabilities of the client. By contrast, claim 2 now requires that the system include user preferences that select the quality of encoding based on the type of content – for example, a higher bit rate for sports content than for nature content.

Claim 21 requires that the system receive a broadcast of audio or video and that it include a storage device. Further, the claim specifies that the system encode the broadcast at one of a plurality of different qualities for storage on the storage device. The Examiner cites column 6, lines 50-52, of Sahai for support for the storage device limitation. However, this paragraph from Sahai says only that the process for adapting the data stream is stored. Moreover, it is stored on the server 10 and not on the client device. Sahai teaches only transmission of data (streaming) and does not show storage of differently encoded media on a storage device. The server 10 accesses a file that is stored on the server that includes client capabilities but this does not indicate the amount of storage space available on the client as stated, for example, in claim 23. Contrary to the Examiner's assertion, column 5, lines 35-46, and column 6, lines 12-49, say nothing about encoding based upon the type of content specified by user preferences. Sahai is concerned only with the system capabilities of the user.

Claims 22 through 30 are dependent on claim 21 and thus, like claim 21, are patentable over Sahai.

With respect to claim 38, as stated with respect to claim 2, Sahai does not encode audio or video based upon its content. Encoding at the transmission end of Sahai's system is based solely on user capabilities. These are only hardware and software attributes – not user choices based upon content. Further, in Sahai, there is no "storage attribute" provided as part of the user preferences description because Sahai provides no storage for media received by the user.

With respect to claim 49 as stated above in connection with the discussion as to claim 38, Sahai provides no storage attribute as part of a user preferences description.

With respect to claim 57, the same arguments as above apply. In addition, Sahai does not teach an "agent" that selects the quality of encoding based upon prior selections. Sahai teaches encoding based only upon system capabilities that are accessed in a file on the client device (column 5, lines 7-10): The media player on the client machine determines the MIME type. In Sahai, there are no "prior selections of either a first quality and said second quality." There is only one quality in Sahai once the media player and client capabilities are known. The rejection under 35 U.S.C. § 102(e) with respect to Sahai should be withdrawn as claims 2, 21, 38, 49 and 57 and any claims dependent thereon.

Claims 10, 26, 31 through 37, and 94 through 103 were rejected under 35 U.S.C. § 103 as being unpatentable over Sahai in view of Li *et al.* To begin with, these claims all require the step of storing all or a portion of the media broadcast by the system or require a storage attribute. Claim 31, for example, requires the step of providing a storage attribute of the user preferences that describes the quality of encoding audio or video during a system pause in viewing or listening. Claim 10 requires storing a portion of audio or video as does claim 26. Claim 94 does not require storage *per se* but does require a mode attribute that permits a forward speed, a reverse speed and a time interval-skipping feature. With respect to all of the above except for claim 94, neither Sahai nor Li, either singly or in combination, provides such a storage feature. Sahai provides no "storage attribute" as part of a user preferences description. In fact, in Sahai's system, there is no storage at the client end of the system. Thus, there can be no storage attribute describing the user's audiovisual system. Further, there is no teaching

in either Li or Sahai that any storage attribute is provided which describes the quality of encoding while the system pauses. Li provides a pause function but does not describe the quality of encoding on a data storage unit. Sahai has no data storage unit with attributes defined by a user preferences description. Li is a video on demand system that does not contemplate storage of media and thus does not provide for differences in encoding as part of a user preferences description. Thus even if it were assumed to be proper to combine Sahai and Li under § 103, such combination would fail to contain the features of the above-recited claims.

Further, the combination of Li and Sahai is improper under an obviousness analysis. Sahai is a system that transmits media according to a) the capabilities of the user's system, and b) user preferences such as CPU processing power and other attributes listed at column 3, lines 23-60. Sahai has no provision for pausing the transmission of data because it lacks the synchronized buffer capability of Li. To properly combine Sahai and Li, one would have to assume that Sahai could be modified to include Li's "on demand" and interactive features which require these types of buffers. However, this is unworkable in Sahai because Sahai's system must adapt to different user profiles. In Li, the interactive features work because there are no different equipment profiles – each user has the same receiver box. Thus, the two systems are fundamentally incompatible and one of ordinary skill in the art would not have assumed that Li's functionality could be somehow imported into Sahai's system. Thus, the rejection of these claims under § 103 should be withdrawn.

Claims 61 through 72 were rejected under 35 U.S.C. § 103 as unpatentable over Sahai in view of Fano. The Examiner acknowledged that Sahai did not provide a time delivery preference. The Examiner suggested that Fano met such preference and it would have been obvious to incorporate such a feature into Sahai. However, given the structure of Sahai, it is not possible to provide a time delivery preference in Sahai's system. The delivery process of Sahai is initiated by accessing a URL. This is a manual operation initiated by the user. Sahai requires the Internet for establishing a communications link between the server and the client and teaches that the system is triggered by the user clicking on a URL in his browser. By contrast, Fano is a video system that does not use the Internet but uses a dedicated network with a user at one end and a broadcaster at the other. The two systems are so different that the time attribute feature of Fano could not be used in Sahai. Sahai's entire premise is that the

user decides when to access the desired media by choosing a URL. The media is not delivered at scheduled times but is available immediately whenever the user decides to access it. Thus, it would require substantial redesign of the Sahai system to incorporate a feature like Fano's time preferences, but such feature would be entirely unnecessary. It makes no sense because the data is available in Sahai any time the user desires it.

Fano further describes an agent that is a program that includes, among other things, time delivery preferences of a user. However, this agent apparently "learns" this data by monitoring a user's historical usage pattern. Nowhere in Fano's system is there the step of providing a time attribute in the preferences description that describes a first (start) time or a second (end) time that bears a relationship to a "schedule time." Thus, even if the combination of Fano and Sahai were proper, it would not teach what is claimed.

Claims 73 through 93 were rejected as obvious over Sahai in view of Barrett. This rejection is traversed because Barrett does not show a layer attribute in a user preferences description. Contrary to the Examiner's assertion, neither Fig. 4A nor Fig. 4B or column 6, lines 1-27 or 43-58, teach this feature. The discussion in column 6 of Barrett describes groups of transcoders that convert one type of information encoding to another, for example, HTML to VOXML. Such grouping has nothing to do with layers of supplemental data auxiliary to audio or video media. Furthermore, the object of Barrett is do different from what Sahai purports to teach that there would be no purpose in using any technique taught by Barrett in the Sahai system. Barrett is a system for managing a group of transcoders. Sahai is a system that delivers data over the Internet or some other network customized to the capabilities of a client device. The "sublayer" described at lines 43-58 of Barrett is a program like a browser that caches transcoding steps. It is not, as the claims require, an attribute of audio or video that is found in a user preferences description.

With respect to claim 80, Sahai does not teach a storage device for received audio or video and thus does not receive a selected number of layers of supplemental data. Moreover, Barrett does not teach layers of data supplemental to audio or video media.

With respect to claim 89, Barrett does not teach the steps of either providing content or type attributes nor of determining the number of layers of supplemental data based upon such

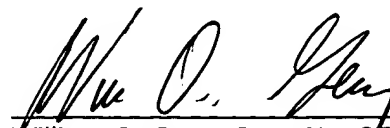
content or type attributes. Instead, Barrett encodes files from one format to another, for example a .GIF image transferred to a PDF format with a .JPEG embedded image. This is completely different from what is claimed in claim 89.

Claims 104 through 107 were rejected as unpatentable over Sahai in view of Huang. The claims as amended now include the limitations of cancelled claims 105 through 107. Sahai and Huang combined fail to show the step of providing a media attribute which describes the user's preferences which include at least one of six audio formats and either letterbox or 4:3 ratio for video. Huang merely classifies data as audiovisual information but does not describe the claimed formats. Claim 104 as amended should thus be allowed.

Claims 108 through 118 were rejected as obvious in view of Sahai and Kanevsky. This rejection is respectfully traversed. It would not have been obvious to combine Kanevsky with Sahai because Sahai does not suggest any user preference data related to content as discussed previously. Sahai determines user capabilities for receipt of broadcast media and stores these in a file accessible by the server. There is no suggestion in Sahai of having user preferences with any attributes relating to type, content or other creative attributes that may be desired by the user including creation date and the related creative content data set forth in claims 109 through 118. Kanevsky is a graphical user interface that organizes desktop icons in a fractal appearance to preserve screen space and to suggest links between content. Thus, there is no motivation to combine Kanevsky with Sahai because Sahai does not suggest a graphic interface that contains any data relating to content or creative attributes such as creation date. Sahai's user preferences only relate to the capability of a client's machine to receive and display data from the server. Accordingly, the rejection should be withdrawn and claims 108 through 118 should be allowed.

In view of the above amendments and applicant's arguments, applicant respectfully requests that the claims be allowed and the case passed to issue.

Respectfully submitted,



William O. Geny, Reg. No. 27,444
Tel No.: (503) 227-5631

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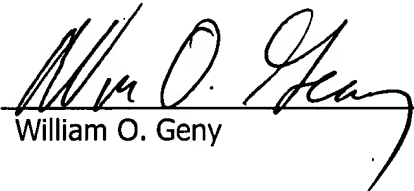
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William O. Geny